

Remarks

In the Office Action mailed 06/21/2005, Claims 1-27 are pending in the application. Claims 1, 2, 4, 5, 16, 25, and 26 are rejected under 35 USC 102(b) as being anticipated by Burrowes, et al. (4,587,513). Claims 15,23,24, and 27 are rejected under 35 USC 103(a) as being unpatentable over Burrowes. Claim 3 is rejected under 35 USC 103(a) as being unpatentable over burrowes in view of Soar (2004/0061044). Claims 6-14, 17, 21, and 22 are rejected under 35 USC 103(a) as being unpatentable over Burrowes in view of Uebbing et al (5,317,149). Claims 18-20 are rejected under 35 USC 103(a) as being unpatentable over Burrowes in view of McQueen (2002/019550).

Claims 1, 2, 3 have been amended. Claims 21-25 and 27 have been canceled. The rejections are respectfully traversed.

REJECTIONS UNDER 35 U.S.C. § 102

Claims 1, 2, 4, 5, 16, 25, and 26 were rejected under 35 U.S.C. § 102(b) as being anticipated by Burrowes. These rejections are respectfully traversed.

A cited prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. MPEP § 2131; *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990). Anticipation is only shown where each and every limitation of the claimed invention is found in a single cited prior art reference. MPEP § 2131; *In re Donohue*, 766 F.2d 531, 534, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985).

Claim 1 has been amended. Applicant respectfully submits that Burrowes does not teach (expressly or inherently) at least the following features found in independent Claim 1: the use of an image detector, and a substrate to which the emitter and image detector are mounted. Claims 2, 4, 5, 16, 25, and 26 depend on Claim 1.

REJECTIONS UNDER 35 U.S.C. § 103

A *prima facie* case of obviousness is established when the teachings of the prior art itself suggest the claimed subject matter to a person of ordinary skill in the art. *In re Bell*, 991 F.2d 781, 783, 26 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1993). To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed invention and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. MPEP § 2142.

When a proposed modification or combination of the prior art would render the prior art invention unsatisfactory for its intended purpose or change the principle of operation of the prior art invention, there is no suggestion or motivation to make the proposed modification. As a result, the teachings of the references are not sufficient to render the claims *prima facie* obvious. MPEP § 2143.01.

Claims 15, 23, 24, and 27 are rejected under 35 USC 103(a) as being unpatentable over Burrowes. As previously stated, Burrowes does not teach or suggest at least the following limitations in amended Claim 1 on which claims 15, 23, 24, and 27 depend: the use of an image detector, and a substrate to which the emitter and image detector are mounted.

Claim 3 is rejected under 35 USC 103(a) as being unpatentable over Burrowes in view of Soar. Claim 3 has been amended. Neither Burrowes nor Soar (separately or in combination) teach the use of a substrate to which the emitter and image detector are mounted.

Claims 6-14, 17, 21, and 22 are rejected under 35 USC 103(a) as being unpatentable over Burrowes in view of Uebbing. Claims 21 and 22 have been

canceled. Claims 6-14 and 17 depend on claim 1 which has been amended. Neither Burrows nor Uebbing (separately or in combination) teach the use of a baffle between the emitter and the image detector, as is required by Claim 1 on which dependent claims 6-14 and 17 depend.

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Claims 18-20 are rejected under 35 USC 103(a) as being unpatentable over Burrows in view of McQueen. Claims 18-20 depend on claim 1 which has been amended. Neither Burrows nor McQueen (separately or in combination) teach the use of a substrate to which the emitter and image detector are mounted.


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Applicant respectfully suggests that claims 1-20 and 26 are in condition for allowance.

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Respectfully Submitted,

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